



**Hydro One Networks Inc.**

**Application for leave to construct an electricity  
transmission line between Chatham Switching Station  
and Lakeshore Transmission Station.**

**PROCEDURAL ORDER NO. 1**

**July 13, 2022**

Hydro One Networks Inc. (Hydro One) filed an application with the Ontario Energy Board (OEB) under sections 92 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act), seeking approval to construct approximately 49 kilometres of 230 kilovolt double-circuit transmission line between Chatham Switching Station and Lakeshore Transformer Station and associated station facilities to connect the new transmission line at the terminal stations (Project). The proposed transmission line and station facilities will be located in the municipalities of Chatham-Kent and Lakeshore and the County of Essex. Hydro One has also applied to the OEB for approval of the form of land use agreements it offers to landowners for the routing or construction of the Project.

A Notice of Hearing was issued on June 3, 2022. The Chippewas of Kettle and Stony Point First Nation together with Southwind Corporate Development Inc. (CKSPFN), Environmental Defence, the Haudenosaunee Development Institute (HDI), the Independent Electricity System Operator (IESO), the Municipality of Chatham-Kent, Pollution Probe, and the Ross Firm Group applied for intervenor status. CKSPFN, Environmental Defence, HDI, Pollution Probe and the Ross Firm Group applied for cost eligibility. The Municipality of Chatham-Kent stated that it is aware that it is not eligible for an award of costs under the OEB's [Practice Direction on Cost Awards](#) (Practice Direction) but reserved the right to seek costs depending upon the extent of its involvement and contribution throughout the proceeding and if exceptions to section 3.05 of the Practice Direction apply.

By letter dated June 29, 2022, Hydro One acknowledged and accepted the seven intervenors. Hydro One did not note any objections to the requests for cost eligibility.

## **Environmental Defence, the Municipality of Chatham-Kent, Pollution Probe and the IESO**

Environmental Defence, the IESO, the Municipality of Chatham-Kent and Pollution Probe are approved as intervenors, and Environmental Defence and Pollution Probe are eligible for cost awards under the OEB's Practice Direction, all in respect of matters that are within the scope of this proceeding.

### **The Ross Firm Group**

The Ross Firm Group is a landowner group comprising 48 individual landowners that have retained The Ross Firm to represent them in this proceeding. According to the intervention request, Hydro One is proposing a taking of the land in respect of the property of the vast majority of these landowners, while the remaining are made up of directly abutting landowners. The Ross Firm Group is approved as an intervenor and is eligible for cost awards in respect of matters that are within the scope of this proceeding, subject to the exception noted below.

At this time the OEB does not grant cost eligibility to the Ross Firm Group in respect of representing the interests of the directly abutting landowners in their capacity as landowners. Except in exceptional circumstances, the OEB does not grant cost eligibility to individual landowners unless the facilities that are the subject of the application are on their property or the utility requires access to their property.<sup>1</sup> From the Ross Firm Group's letter of intervention, it is not clear whether or how the directly abutting landowners are affected. The OEB will allow the Ross Firm Group an opportunity to provide additional information on how the directly abutting landowners are affected by the Project, or to identify any special circumstances that they wish the OEB to consider in relation to cost award eligibility in respect of representing the interests of those landowners. Any such submissions must be filed by **July 20, 2022**.

### **CKSPFN and HDI**

In its letter of intervention, CKSPFN stated that it is "affected by this Application with respect to potential impacts on Treaty rights, land use and cultural heritage." CKSPFN stated that its interest in this proceeding relates to:

- a) issues related to economic and environmental impacts and land matters;
- b) whether the duty to consult and accommodate with Indigenous communities potentially affected by the proposed project has been discharged with respect to the Application; and

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<sup>1</sup> Procedural Order No.1 and Cost Eligibility Decision, EB-2012-0451, April 17, 2013.

- c) generally, to represent the constitutionally recognized Aboriginal rights and interests of CKSPFN, its members, and its wholly-owned development corporation Southwind.

In its letter of intervention, HDI stated that it acts with delegated authority from the Haudenosaunee Confederacy Chiefs Council (HCCC), the collective rights holder on behalf of the Haudenosaunee, and acts on behalf of HCCC in respect of development issues on lands where HCCC holds an interest.

HDI stated that it has significant concerns relating to the Project, which relate to “the impact the Project may have on Haudenosaunee rights and treaty lands, including, but not limited to, the loss of the Haudenosaunee’s substantive rights to the treaty lands in the [municipalities of Chatham-Kent and Lakeshore and the county of Essex], detrimental environmental effects resulting from the construction and operation of the proposed transmission line, disruption of the environment and ecology of the surrounding land, and sustainable development of historical and traditional Haudenosaunee lands”. HDI also stated that its participation in this proceeding, including its review of Hydro One’s application materials, may also reveal additional Haudenosaunee concerns with respect to prices and the reliability and quality of electricity service. HDI further stated that the OEB has preemptively barred intervenors from addressing issues related to the Crown’s duty to consult and has thus failed to uphold the honour of the Crown and advance the goals of reconciliation.

CKSPFN and HDI are approved as intervenors and are eligible for costs in respect of matters that are within the scope of this proceeding.

### **Issues and Interrogatories**

The OEB has developed a standard [Issues List](#) for electricity leave to construct applications. The standard issues list is intended to ensure that the OEB’s review is focused and aligned with its mandate.

By [Order in Council](#) dated March 31, 2022, the Lieutenant Governor in Council declared that the Project is a priority transmission project under section 96.1 of the OEB Act. Accordingly, pursuant to section 96.1(2) of the OEB Act, the OEB is required to accept that the construction of the Project is needed. In addition, it is a condition of Hydro One’s electricity transmission licence to develop and seek approvals for a new Chatham to Lakeshore transmission line, and that development of the line accord with the project scope and timing recommended by the IESO<sup>2</sup>. As such, the standard issues relating to

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<sup>2</sup> These conditions were added to Hydro One’s licence by [Decision and Order](#) dated December 23, 2020 (EB-2020-0309) further to a Ministerial Directive received by the OEB on December 17, 2020

need and the consideration of alternatives to the construction of a transmission line are not applicable in this proceeding. The OEB also notes that the Project is subject to an Environmental Assessment conducted by the Ministry of the Environment, Conservation and Parks, and that the duty to consult for the Project is led by the Ontario government as part of the Environmental Assessment process.

The issues that the OEB will consider in this proceeding are listed in Schedule A to this Procedural Order, subject to such amendments as the OEB considers necessary as the proceeding progresses.

At this time, provision is being made for written interrogatories. Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

### **Other Intervenor Requests**

The Ross Firm Group and HDI requested that the OEB hold an oral hearing. HDI has indicated that it wishes to submit evidence, and the Municipality of Chatham-Kent has requested the right to file evidence. The OEB will make its determination on these matters at a later date.

### **List of Parties and Considerations in Awarding Costs**

The list of parties in this proceeding is attached as Schedule B to this Procedural Order.

Parties should focus their participation on issues that are within the scope of the OEB's review and should coordinate their participation to avoid duplication. In making its decision on cost awards, the OEB will consider whether cost eligible intervenors made reasonable efforts to focus their participation on issues within the scope of the OEB's review and avoid duplication with other parties.

The OEB is making provision for the following matters. Additional procedural steps will be considered at a later date, and further procedural orders may be issued by the OEB.

### **THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. OEB staff and intervenors shall request any relevant information and documentation from Hydro One that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **July 27, 2022**.
2. Hydro One shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by **August 10, 2022**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0140** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact [registrar@oeb.ca](mailto:registrar@oeb.ca) for assistance

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Andrew Bishop at [andrew.bishop@oeb.ca](mailto:andrew.bishop@oeb.ca) and OEB Counsel, Michael Millar at [michael.millar@oeb.ca](mailto:michael.millar@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-877-632-2727 (Toll free)

**DATED** at Toronto, **July 13, 2022**

**ONTARIO ENERGY BOARD**

**By delegation, before: Rudra Mukherji**

Rudra Mukherji  
Manager, Adjudicative Process

**SCHEDULE A**  
**ISSUES LIST**  
**HYDRO ONE NETWORKS INC.**  
**EB-2022-0140**  
**JULY 13, 2022**

## **Schedule A: Issues List**

### **1. Prices: Project Cost**

- 1.1. Has the applicant provided sufficient information to demonstrate that the estimates of the project cost are reasonable? Are comparable projects selected by the applicant (as required by the filing requirements) sufficient and appropriate proxies for the proposed project?
- 1.2. Has the applicant adequately identified and described any risks associated with the proposed project? Is the proposed contingency budget appropriate and consistent with these identified risks?
- 1.3. If the applicant has requested that deferral accounts be established, has the applicant adequately demonstrated that the eligibility criteria of Causation, Materiality, and Prudence have been met?

### **2. Prices: Customer Impacts**

- 2.1. Has the applicant correctly determined the need for and the amount of any capital contributions that are required for the project?
- 2.2. Are the projected transmission rate impacts that will result from the project reasonable given the need(s) it satisfies and the benefit(s) it provides?

### **3. Reliability and Quality of Electricity Service**

- 3.1. Has the applicant established that the project will maintain or improve reliability?
- 3.2. Has the applicant provided a final System Impact Assessment (SIA)? Does the final SIA conclude that the project will not have a material adverse impact on the reliability of the integrated power system?
- 3.3. Has the applicant provided a final Customer Impact Assessment (CIA)? Does the final CIA conclude that the project will not have an adverse impact on customers, with respect to reliability and quality of electricity service?

### **4. Route Map and Form of Landowner Agreements**

- 4.1. Are any proposed forms of landowner agreements under section 97 of the OEB Act appropriate and consistent with OEB requirements?

- 4.2. Does the route map provided pursuant to section 94 of the OEB Act show the general location of the proposed project and the municipalities, highways, railways, utility lines and navigable waters through, under, over, upon or across which the proposed project is to pass.

**5. Conditions of Approval**

- 5.1. The OEB's standard conditions of approval are attached as Attachment 1. If the OEB approves the proposed project, what additional or revised conditions, if any, are appropriate?



## **Attachment 1:**

### **Standard Conditions of Approval for Electricity Leave to Construct Applications**

1. [The Applicant] shall fulfill any requirements of the SIA and the CIA, and shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the project.
2. Unless otherwise ordered by the OEB, authorization for leave to construct shall terminate 12 months from the date of the Decision and Order, unless construction has commenced prior to that date.
3. [The Applicant] shall advise the OEB of any proposed material change in the project, including but not limited to changes in: the proposed route, construction schedule, necessary environmental assessment approvals, and all other approvals, permits, licences, certificates and rights required to construct the project.
4. [The Applicant] shall submit to the OEB written confirmation of the completion of the project construction. This written confirmation shall be provided within one month of the completion of construction.
5. [The Applicant] shall designate one of their employees as project manager who will be the point of contact for these conditions, and shall provide the employee's name and contact information to the OEB and to all affected landowners, and shall clearly post the project manager's contact information in a prominent place at the construction site.

**SCHEDULE B**

**LIST OF PARTIES (APPLICANT AND INTERVENORS)**

**HYDRO ONE NETWORKS INC.**

**EB-2022-0140**

**July 13, 2022**

Hydro One Networks Inc.  
EB-2022-0140

**APPLICANT & LIST OF INTERVENORS**

July 13, 2022

**APPLICANT**

**Rep. and Address for Service**

**Hydro One Networks Inc.**

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Hydro One Networks Inc.  
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**APPLICANT & LIST OF INTERVENORS**

July 13, 2022

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**Hydro One Networks Inc.  
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**APPLICANT & LIST OF INTERVENORS**

July 13, 2022

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**APPLICANT & LIST OF INTERVENORS**

July 13, 2022

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Hydro One Networks Inc.  
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**APPLICANT & LIST OF INTERVENORS**

July 13, 2022

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